



PART 3 :Exhibit 3

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5 Attachments



Exhibit 3.jpg



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ethical violations.jpg



ABA Model.jpg



ex 3-prosecutorial misconduct.jpg

See attached

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JOHN 8:32 And You shall know the truth and the truth
shall set you free

From: Pastor D

Sent: Thursday, October 29, 2015 1:24 AM

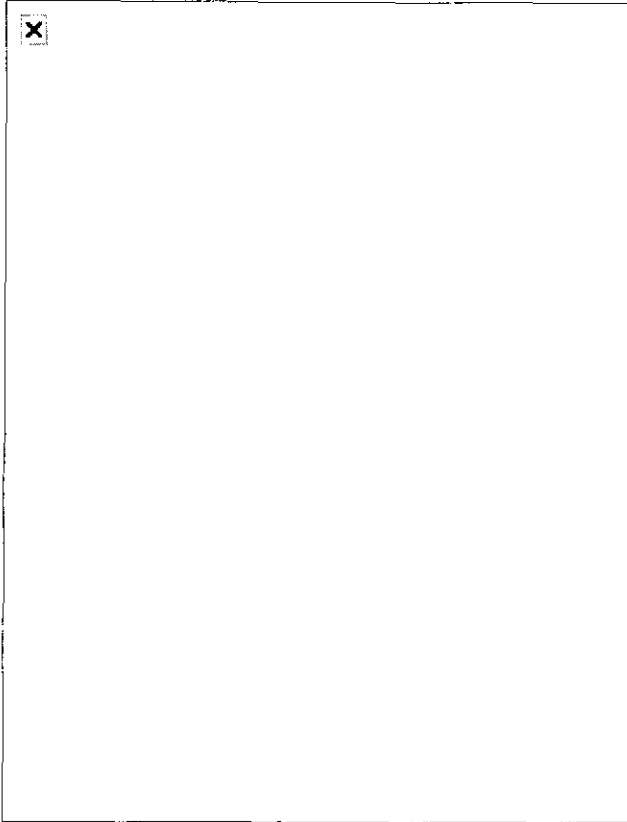
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Subject: Exhibit 3

THE MINISTRY OF JUSTICE

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***Pastor D, Public Relations, International Press & Media
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LUKE 8:17 For nothing is hidden that will not become evident, nor anything secret that will not be known and come to light.

-EXHIBIT 3-

Karen Oreinsein Denial to Admit and address
Defendant's claim against Illegal Forfeiture

EXHIBIT 3-KAREN ORENSTEIN

Transcript of October 21 2015 showing Lerer besides Orenstein stating before the Court that Ms.Yembe never made a claim against the forfeited Items although advised to do so.

However, it was another lie for, see letter attached by Robert Larusso on behalf of Ms.Yembe on November 18 2014 showing homeland security reception stamps for september 14 at 2 pm for all claims submitted by Ms.Yembe.

05176104

Prosecutorial Misconduct (cont.)

or limiting absolute immunity would force prosecutors to consider the consequences of their actions relative to their personal accountability.

It is obvious that examples of prosecutorial misconduct include, but are not limited to, deliberate wrongdoing, such as they should be afforded the benefit of absolute immunity.

It is worth noting that absolute immunity does not extend to prosecutors when they engage in conduct unrelated to their official prosecutorial duties – such as investigative or discretionary activities. For example, one such case involved comments made by a prosecutor during a press conference. See: *Buckley v. Fitzsimmons*, 113 S.Ct. 2606 (1993).

The distinction as to what conduct is entitled to immunity can be complicated due to various loopholes, however, as discussed in a recent Seventh Circuit decision that found a prosecutor was not entitled to absolute immunity for fabricating evidence before a defendant's indictment and then prosecuting the defendant, who was eventually exonerated after serving 17 years in prison.

In a fairly technical ruling, the Court of Appeals explained that "A prosecutor cannot retroactively immunize himself from conduct by perfecting his [investigatory] wrongdoing through introducing the fabricated evidence at trial and arguing that the case was not completed until a time at which he had acquired absolute immunity." See: *Quinn v. Wherry*, 740 F.3d 1107 (7th Cir. 2014).

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Prison Legal News

In a 2014 report, the Center for Prosecutor Integrity suggested replacing prosecutorial absolute immunity with qualified immunity – a lesser form of immunity defense commonly applied to other government actors.

Another alternative to curtailing the absolute immunity granted to prosecutors in civil cases is to file criminal charges against prosecutors who engage in egregious misconduct – particularly misconduct that results in wrongful convictions. That was the suggestion of Dallas County district attorney Craig Watkins, who has proposed the increased use of criminal charges to sanction abusive prosecutors; for example, criminal contempt of court.

But then who would prosecute those prosecutors? Presumably, other prosecutors.

Conclusion

THE Pervasiveness of prosecutorial misconduct is a problem that requires immediate attention by lawmakers, the judiciary, and the professional watchdog organizations and tribunals charged with overseeing attorney discipline, as well as by prosecutors themselves.

Legislative efforts such as the Fairness in Disclosure of Evidence Act are a positive development, though they tend to focus on Brady-related issues and do not reach other forms of wrongdoing. Ultimately, the reporting and redress of prosecutorial misconduct must come from those within the criminal justice system, including judges and defense attorneys, such as through the enforcement of a stronger version of ABA Model Rule 3.8 and similar regulations.

Meaningful disciplinary proceedings, also a useful tool, have been under-utilized, and a change in the "conviction at any cost" culture among prosecutors must be realized through better professional training and education. Only then will we be able to truly address this pervasive problem that serves to undermine public confidence in our criminal justice system – where the emphasis should be on "justice," not conviction rates.

Yet from the viewpoint of those victimized by abusive prosecutors, including those who have been wrongly convicted and imprisoned, disciplinary sanctions such as reprimands, censures and suspensions provide little comfort. Michael Morton spent nearly 25 years in prison; John Thompson

was almost executed. And there are other examples of prosecutorial misconduct that has put innocent people behind bars on death row.

Ultimately, a change in the adversarial nature of our criminal justice system is needed. Such change is possible, but if an honest effort is made by everyone involved, beginning with how we view their own role, responsibility and ethical obligations.

As stated by Thompson: "It's a broken system that is void of integrity. Mistakes can happen. But if you don't do anything to stop them from happening again, you keep calling them mistakes."

Sources: ABA Journal; American Bar Association Model Rule of Professional Conduct 3.8 (2008); American-Statesman; Ari Star; Associated Press; Daily Business Review; Houston Chronicle; <http://allthingscrime.com>; <http://jacksonville.com>; <http://m.yahoon.com>; National Law Journal; New Daily News; The New York Times; "Venetian Error: A Report on Prosecutorial Misconduct in California, 1997-2009," by Veritas Institute (October 2011); "Prosecutorial Misconduct," 2d ed., by Bennett Gershberg; "Prosecutorial Misconduct: Law, Procedure, Forms," by Joseph F. Lawless (2011); Champion; "The Myth of Prosecutorial Accountability After *Cannick v. Thompson*: Why Existing Professional Responsibility Measures Cannot Protect Against Prosecutorial Misconduct," by David Keenan, et al. 121 Yale Law Journal Online 203 (Oct. 2011); Texas Tribune; National Register of Exonerations; USA Today; Washington Examiner; www.alternet.org; www.buffingtonpost.com; www.fox.com; www.nationalreview.com; www.newobserver.com; www.prisonslawblog.com; www.propublica.org; www.prosecutorialaccountability.com; www.reuters.com; www.sptimes.com; www.star-telegram.com; www.stopthedrugwar.org; www.times-standard.com; www.prosecutorialintegrity.org; www.nocenceproject.org; www.watchdog.org; <http://gritforbreakfast.blogspot.com>; www.law.wich.edu; "The Brady Colloquy," by Jason Kreis, 67 Stan. L. Rev. Online 47 (Sept. 2014); www.abnnews.go.com; www.economist.com; www.federalcriminalappealblog.com; www.nola.com; Los Angeles Times; www.syracuse.com; www.justice.gov/opr; www.pago.org; Tulsa World; www.bronxbureau.org; www.ksl.com; Commercial Appeal

Prosecutorial Misconduct (cont.)

Louisiana Attorney Discipline Board recommended a six-month suspension but the state Supreme Court imposed only a public reprimand.

Asked by a *Huffington Post* reporter whether any prosecutors had ever said they were sorry for his wrongful conviction, Thompson responded, "Sorry? For what? You tell me that. Tell me what the hell would they be sorry for. They tried to kill me. To apologize would mean they're admitting the system is broken.... That everyone around them is broken. It's the same motherfucking system that's protecting them."

Less than a year after the Supreme Court's ruling in *Cannick v. Thompson*, the Court found Brady violations by the Orleans Parish District Attorney's Office in another prosecution. In that case, the Court reversed the murder convictions of a defendant based on claims that prosecutors had withheld material evidence. See: *Smith v. Cain*, 132 S.Ct. 677 (2012).

ABA Model Rule 3.8

THE AMERICAN BAR ASSOCIATION'S Model Rules of Professional Conduct are widely recognized as the touchstone of ethical behavior for attorneys. Model Rule 3.8, "Special Responsibilities of a Prosecutor," has been adopted by 49 states, Guam, the U.S. Virgin Islands and the District of Columbia. California is the only state to not adopt a similar rule.

While the ABA's Model Rules apply equally to all attorneys, Rule 3.8 is notable because it's the only rule specific to prosecutors. As such, most commentators view Rule 3.8 as

the starting point for prosecutorial ethics.

Rule 3.8 defines "special" ethical duties applicable to prosecutors, including the following, among others. The Rule provides that prosecutors shall:

• Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause.

• Make timely disclosure to the defense of all evidence known to the prosecutor that tends to establish the guilt of the accused or mitigate the sentence, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; (1) (NS) (Rule 1.6)

• Except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused; (2) (NS) (Rule 3.6)

• When informed of new, credible, and material evidence creating a reasonable likelihood that a defendant did not commit an offense of which the defendant was convicted, the prosecutor shall promptly disclose that evidence to an appropriate court or authority and, if the evidence was obtained in the prosecutor's jurisdiction, promptly disclose that evidence to the defense; (3) (NS) (Rule 3.7)

• Make reasonable efforts to cause an investigation to determine whether the defendant has been convicted of an offense that the defendant did not commit; and

• When a prosecutor knows of clear

and convincing evidence establishing a defendant's innocence, the prosecutor shall promptly disclose that evidence to an appropriate court or authority and, if the evidence was obtained in the prosecutor's jurisdiction, promptly disclose that evidence to the defense; (4) (NS) (Rule 3.7)

Model Rule 3.8 imposes disclosure obligations that are "separate from broader than the Brady constitutional standards," as the ABA noted in an advisory opinion issued with the Supreme Court in *Smith v. Cain*.

With this in mind, Rule 3.8 seems to require prosecutors to adhere to a heightened standard of conduct. Yet is only in theory because, as a 2011 *Law Journal Online* article notes, the "vague terminology undermines its effect and enforceability in practice."

For example, "Rule 3.8's prescriptive force is greatly diminished by its failure to address many important aspects of prosecutorial function," including plea bargains. More than 90% of federal criminal prosecutions are resolved through plea bargains (see: *PLN*, Jan. 2013, p.20); however, Rule 3.8 fails to address prosecutorial conduct during plea negotiations.

"In sum, Model Rule 3.8 promises its face more than it delivers in practice," *Yale Law* article concludes. "While the many instances of prosecutorial misconduct that clearly fall within its ambit, the rule fails to address some of the more significant aspects of the prosecutor's justice-seeking role."

Even if flawed, Rule 3.8 is still one of the few existing tools for curbing prosecutorial misconduct. Indeed, Innocence Project co-founder Barry Scheck and former federal judge Nancy Gertner co-authored an article recommending that defense attorneys specifically cite Model Rule

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November 2014

Prison Legal News

ethical violations

Exhibit 3- Prosecutorial Misconduct

Prosecutorial misconduct otherwise said , malicious prosecution statements made several times by Ms.Yembe are valid per the ABA Model and all evidence of lies intercepted.

See attachment of prosecutorial misconduct and underlined data of all ethical violations committed against Ms.Yembe which remain unaddressed until today.

Also please see attached a case of illegal forfeiture were justed was granted.

Ms.Yembe claims that prejudice, racial discrimination, her being an Alien Immigrant has played a major part in all violation she has endured besides, all the accusation which for long remained unsupported by valid evidence therefore could not constitute a legal case which ultimately led to its dismissal in a world where a 98.9% conviction rates rules, and Prosecutors use dirty tactics to force and twist the arm of defendant to bend and sign malicious proposal, Ms.Yembe is a miraculous proof of God's blessing and desire for justice to be exposed to the light of the darkness of false accusation, wrongful imprisonment and torture behind bars for which so many prisoner are still currently victims.

Ms.Yembe like many other victim of wrongful imprisonment is entitled to financial compensation for trauma, sexual, emotional, psychological abuse, ethical violations wrongful imprisonment for dismissed case after 14 months of her life were stolen, her name slandered, and life ruined, however instead of such, she is fighting a forfeiture case where further violation are being entertained and attempted.